

AM2322
LB 824
NPN-01-16

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AMENDMENTS TO LB 824

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 28-101, Revised Statutes Supplement,
4 2000, is amended to read:

5 28-101. Sections 28-101 to 28-1348 and sections 2 to 8
6 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. Sections 2 to 8 shall be known and may be cited
9 as the Homicide of the Unborn Child Act.

10 Sec. 3. For purposes of the Homicide of the Unborn Child
11 Act, unless the context otherwise requires:

12 (1) Premeditation means a design formed to do something
13 before it is done; and

14 (2) Unborn child means an individual member of the
15 species Homo sapiens, at any stage of development in utero, who was
16 alive at the time of the homicidal act and died as a result thereof
17 whether before, during, or after birth.

18 Sec. 4. Sections 5 to 8 of this act do not apply to an
19 act or conduct causing or contributing to the death of an unborn
20 child when the act or conduct is:

21 (1) Committed or engaged in by the mother of the unborn
22 child;

23 (2) Any medical procedure performed with the consent of
24 the mother; or

1 (3) Dispensing a drug or device in accordance with law or
2 administering a drug or device prescribed in accordance with law.

3 Sec. 5. (1) A person commits murder of an unborn child
4 in the first degree if he or she (a) in committing an act or
5 engaging in conduct that causes the death of an unborn child,
6 intends, with deliberate and premeditated malice, to kill the
7 unborn child or another or, (b) kills an unborn child by
8 administering poison or causing the same to be done.

9 (2) Murder of an unborn child in the first degree is a
10 Class IA felony.

11 Sec. 6. (1) A person commits murder of an unborn child
12 in the second degree if he or she, in committing an act or engaging
13 in conduct that causes the death of an unborn child, intends, but
14 without premeditation, to kill the unborn child or another.

15 (2) Murder of an unborn child in the second degree is a
16 Class IB felony.

17 Sec. 7. (1) A person commits manslaughter of an unborn
18 child if he or she (a) kills an unborn child without malice upon a
19 sudden quarrel with any person or (b) causes the death of an unborn
20 child unintentionally while in the perpetration of or attempt to
21 perpetrate any assault, any sexual assault, arson, robbery,
22 kidnapping, intentional child abuse, hijacking of any public or
23 private means of transportation, or burglary.

24 (2) Manslaughter of an unborn child is a Class III
25 felony.

26 Sec. 8. (1) A person who causes the death of an unborn
27 child unintentionally while engaged in the operation of a motor

AM2322
LB 824
NPN-01-16

AM2322
LB 824
NPN-01-16

1 vehicle in violation of the law of the State of Nebraska or in
2 violation of any city or village ordinance commits motor vehicle
3 homicide of an unborn child.

4 (2) Except as provided in subsection (3) of this section,
5 motor vehicle homicide of an unborn child is a Class I misdemeanor.

6 (3) (a) If the proximate cause of the death of an unborn
7 child is the operation of a motor vehicle in violation of section
8 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is
9 a Class IV felony.

10 (b) Except as provided in subdivision (3) (c) of this
11 section, if the proximate cause of the death of an unborn child is
12 the operation of a motor vehicle in violation of section 60-6,196,
13 motor vehicle homicide of an unborn child is a Class IV felony and
14 the court shall, as part of the judgment of conviction, order the
15 person not to drive any motor vehicle for any purpose for a period
16 of at least sixty days and not more than fifteen years after the
17 date ordered by the court and shall order that the operator's
18 license of such person be revoked for the same period. The
19 revocation shall not run concurrently with any jail term imposed.

20 (c) If the proximate cause of the death of an unborn
21 child is the operation of a motor vehicle in violation of section
22 60-6,196 and the defendant has a prior conviction under such
23 section or a city or village ordinance enacted pursuant to such
24 section, motor vehicle homicide of an unborn child is a Class III
25 felony and the court shall, as part of the judgment of conviction,
26 order the person not to drive any motor vehicle for any purpose for
27 a period of at least sixty days and not more than fifteen years

AM2322
LB 824
NPN-01-16

AM2322
LB 824
NPN-01-16

1 after the date ordered by the court and shall order that the
2 operator's license of such person be revoked for the same period.
3 The revocation shall not run concurrently with any jail term
4 imposed.

5 Sec. 9. If any section in this act or any part of any
6 section is declared invalid or unconstitutional, the declaration
7 shall not affect the validity or constitutionality of the remaining
8 portions.

9 Sec. 10. Original section 28-101, Revised Statutes
10 Supplement, 2000, is repealed.

11 Sec. 11. Since an emergency exists, this act takes
12 effect when passed and approved according to law.".